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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/722,249	11/25/2003	Ralph L. Piccinino JR.	84473DAN	6034
36802	7590	02/28/2005	EXAMINER	
PACESETTER, INC. 15900 VALLEY VIEW COURT SYLMAR, CA 91392-9221			LE, HOA VAN	
			ART UNIT	PAPER NUMBER
			1752	
DATE MAILED: 02/28/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

cb

<b>Office Action Summary</b>	<b>Application No.</b> 10/722,249	<b>Applicant(s)</b> PICCININO ET AL.	
	<b>Examiner</b> Hoa V. Le	<b>Art Unit</b> 1752	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-14 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |  |
|---|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

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This application is up for consideration.

- A. Restriction to one of the following inventions is required under 35 U.S.C. 121:
- I. Claims 1-5, drawn to a multiple fluid compartment cartridge, classified in class D09, subclass 515. If applicants elect this invention, the application may have to be transferred.
  - II. Claims 6-8, drawn to a method of processing photographic material, classified in class 430, subclass 403.
  - III. Claims 9-10, drawn to a cartridge which is patentably different and distinct structures from that in the invention of Group I above, classified in class D09, subclass 715. If applicants elect this invention, the application may have to be transferred.
  - IV. Claims 11-14, drawn to a photofinishing apparatus, classified in class 396, subclass 567. If applicants elect this invention, the application may have to be transferred.

The inventions of Group I and Group III are all related to the cartridges but have the patentably different and distinct structures and have acquired the separate status and searches in the art and can be supported the separate patents as divided by applicants. Restriction for examination as indicated is proper. Applicant should show or provide an evidence to the contrary. In the absence of convincing evidence, the restriction would not be removed.

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The inventions of (Groups I and III) and (Group IV) are all related to the cartridges and apparatus containing the cartridge . They have the patentably different and distinct structures and have acquired the separate status and searches in the art and can be supported the separate patents as divided by applicants .Restriction for examination as indicated is proper. Applicant should show or provide an evidence to the contrary. In the absence of convincing evidence, the restriction would not be removed.

Inventions of (Groups I, III and IV) and (Group II) are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case, the method for forming an exposed photographic material can be practiced by another materially different apparatus or by hand. Applicant should show or provide an evidence to the contrary. In the absence of convincing evidence, the restriction would not be removed.

Because these inventions are distinct for the reasons given above and have acquired the separate status and searches in the art and can be supported the separate patents as divided by applicants. Restriction for examination purposes as indicated is proper. Applicant should show or provide an evidence to the contrary. In the absence of convincing evidence, the restriction would not be removed.

B. An additional consideration or search for more than one invention or subclass in the art is

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burdensome. Applicant should show or provide a convincing evidence to the contrary. In the absence of convincing evidence, the restriction would not be removed.

C. Applicant is advised that the reply to this requirement to be complete must include an election to be examined even though the requirement be traversed (37 CFR 1.143).

D. Other issues have not been considered until a proper elections of one invention is made and resolved.

E. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hoa V. Le whose telephone number is 571-272-1332.

The examiner can normally be reached from 6:30 AM to 4:00 PM on Monday though Thursday and about the same time of most Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cynthia Kelly can be reached on 571-272-1526.

Applicants may file a paper by (1) fax with a central facsimile receiving number 703-872-9306. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Hoa V. Le  
Primary Examiner  
Art Unit 1752

HVL  
24 February 2005

HOA VAN LE  
PRIMARY EXAMINER

*Hoa Van Le*